



CITY COUNCIL AGENDA REPORT

MEETING DATE: SEPTEMBER 19, 2006

ITEM NUMBER:

SUBJECT: ZONING CODE AMENDMENT CO-06-06 AMENDING TITLE 13, CHAPTER V, ARTICLE 10, OF THE COSTA MESA MUNICIPAL CODE REGARDING FLOODPLAIN AND FLOODWAY DISTRICTS

DATE: SEPTEMBER 6, 2006

FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTATION BY: DONALD D. LAMM, AICP, DEPUTY CITY MANAGER, DEV. SVS. DIRECTOR

FOR FURTHER INFORMATION CONTACT: REBECCA ROBBINS, ASSISTANT PLANNER
(714) 754-5609

RECOMMENDATION:

Give second reading to Ordinance 06-20 amending the City's floodplain management regulations as a condition of continued eligibility in FEMA's National Flood Insurance Program.

ANALYSIS:

On September 5, 2006, City Council gave first reading to the attached ordinance. Staff has no further information on this item.

REBECCA ROBBINS
Assistant Planner

DONALD D. LAMM, AICP
Deputy City Mgr. – Dev. Svs. Director

DISTRIBUTION: City Manager
Asst. City Manager
City Attorney
Deputy City Manager – Dev. Svs. Dir.
Public Services Director
City Clerk (2)
Staff (4)
File (2)

ATTACHMENT: 1 Ordinance 06-20

ORDINANCE NO. 06-20

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA ADOPTING ZONING CODE AMENDMENT CO-06-06 WHICH AMENDS TITLE 13, CHAPTER V, ARTICLE 10, OF THE COSTA MESA MUNICIPAL CODE REGARDING FLOODPLAIN AND FLOODWAY DISTRICTS.

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY ORDAINS AS FOLLOWS:

Section 1. Title 13, Chapter V, Article 10, Floodplain and Floodway Districts, of the Costa Mesa Municipal Code is hereby amended to read as follows:

- a. Amend Section 13-78 as follows:

"Sec. 13-78. DEFINITIONS

The following words and phrases shall have the definition and construction set forth in this section as used in this article, unless otherwise provided:

Area of shallow flooding. A designated AH or AO zone on the flood insurance rate map (FIRM) in which:

- (a) The base flood depths range from one to 3 feet; and
- (b) A clearly defined channel does not exist; and
- (c) The path of flooding is unpredictable and indeterminate; and
- (d) Velocity flow may be evident.

Area of special flood hazard. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base flood. The flood having a one percent chance of being equaled or exceeded in any given year.

Design flood. That flood against which protection is to be provided by means of land use regulation, flood protective or flood control works. For the purposes of this article, the design flood shall be at the 100-year recurrence interval, corresponding to the base flood as defined above.

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, grading or paving located within the flood hazard area.

Flood. A general and temporary condition of partial or complete inundation of land areas from the overflow of inland and tidal waters, and the rapid accumulation of runoff of surface waters from any source and mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.

Flood hazard area. An area having flood, mud-slide (i.e., mudflow) and flood-related erosion hazards, or as shown on a sectional district map, flood insurance rate map (FIRM) or flood boundary and floodway map.

Flood insurance rate map (FIRM) and flood boundary and floodway map. The official maps published by the Federal Insurance Administration (dated August 9, 2002, and any subsequent amendments or revisions thereof) on which are delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study. The "Flood Insurance Study for the City of Costa Mesa, California, Orange County" (preliminary study dated August 9, 2002, and any subsequent revisions or updates thereof) prepared by the Federal Insurance Administration providing flood profiles, as well as the boundaries and the water surface elevations of the base flood, including the flood boundary and flood-way map.

Floodplain. The land area adjacent to a watercourse, and other land areas susceptible to being inundated by water from any source (see definition of "flood").

Floodplain Administrator. The Development Services Director, or his designee, is appointed to administer and enforce the floodplain management regulations.

Flood proofing. Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.

Flood protection system. Those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a flood hazard and the extent of the depth of associated flooding. Such a system typically included channels, storm drains or levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood related erosion. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining, caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water,

accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or by an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Floodway. The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway fringe. The area of the floodplain on either side of the "floodway" where encroachment may be permitted.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that the enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this article.

Land use district symbol. The applicable designation for the zoning of property, contained in this title.

Manufactured home. Any structure that is transportable in one or more sections, built on a permanent chassis, and designated to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision. Any lot (or abutting lots) of land divided into 2 or more manufactured home lots for rent or sale.

Structure. Anything constructed or erected requiring a fixed location on the ground or attached to something having a fixed location on the ground except business signs and other improvements of a minor character. For floodplain management purposes, "structure" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, and includes a manufactured home.

Substantial improvement. Any repair, reconstruction or improvement of a structure, the cost of which equals to or exceeds 50 percent of the appraised value or which involves 50% or more of the existing square footage of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Start of construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other

improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include the following:

- (a) Land preparation, such as clearing, grading and filling;
- (b) Installation of streets and/or walkways;
- (c) Excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor
- (d) Installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure."

b. Amend Section 13-79 as follows:

- "(a) In any base flood district, when the property is included within a designated flood hazard area shown on the adopted Orange County (countywide) Flood Insurance Rate Map (FIRM) dated August 9, 2002, or a subsequent FIRM, of flood boundary and floodway maps as published by the Federal Emergency Management Agency (FEMA), the additional requirements, limitations and standards contained in this article and by FEMA shall apply.
- (b) Flood hazard areas shall be identified and mapped, based upon:
 - (1) The base flood and criteria set forth by the "Flood Insurance Study for the City of Costa Mesa, California, Orange County" (preliminary study dated August 9, 2002, and any subsequent amendments or revisions thereof). If FEMA has not provided base flood elevations in the study, such base flood data shall be obtained from other available sources or studies meeting with City approval; or,
 - (2) The design flood as determined from engineering studies reviewed and found satisfactory by the City as approved by the City Council.
- (c) The following documents are hereby adopted for the application of floodway area regulations only: (1) all the standards of Paragraph 60.3(b) of the National Flood Insurance Program, (2) The Orange County (countywide) FIRM and flood boundary and floodway maps as zoning district maps (dated August 9, 2002, and any subsequent amendments or revisions thereof), and (3) Flood Insurance Study for the City of Costa Mesa (dated August 9, 2002, and any subsequent revisions or updates thereof)."

- c. Amend title of Section 13-80 as follows:

"Sec. 13-80. USES PERMITTED IN THE FLOODWAY AREAS."

- d. Amend Section 13-80(a) as follows:

"(a) The following uses shall be allowed in the floodway areas:

- (1) Flood control channels, levees, spreading basins and grounds, roads, bridges, storm drains and other flood control facilities and devices where the design has been approved by the Director of the Environmental Management Agency and the Board of Supervisors of Orange County or the Public Services Director and the City Council.
- (2) General agricultural uses including farming or pastures provided there are no permanent structures, landfill, storage of materials or equipment or stream alterations that would result in any diversion or increase in flood levels within the designated floodway.
- (3) Public utility transmission lines and conduits.
- (4) Recreation areas, parks, fishing lakes, riding and hiking trails, golf courses, athletic fields and similar open space uses not including any permanent structures or improvements."

- e. Amend Section 13-80(b) as follows:

"(b) The following uses are prohibited in the floodway areas:

- (1) Any permanent structures or buildings excepting those necessary for conveyance of flood and drainage waters and for transit of public utilities and roads.
- (2) Dwelling units.
- (3) Landfills, excavations, improvements, developments or encroachments that would obstruct or create debris-catching obstacles to passage of a design flood, or cause a cumulative increase in the elevation of the design flood-water profile at any point, or would tend to broaden the floodplain or divert flood flows out of the regulatory floodway or in any way impair the design flood conveyance capacity of the regulatory floodway or cause a potential hazard to public safety or property resulting from flood flows.

- (4) Storage or disposal of floatable substances or materials, dangerous chemicals, explosives, flammable liquids or other toxic materials."

f. Amend title of Section 13-81 as follows:

"Sec. 13-81. USES PERMITTED IN THE DESIGNATED FLOODWAY FRINGE AND SPECIAL FLOOD HAZARD AREAS INDICATED ON THE FLOOD INSURANCE RATE MAP."

g. Amend Section 13-81(a) as follows:

"(a) Permitted uses.

- (1) All permitted uses in the floodway areas.
- (2) New structures and improvements, including the placement of buildings within the floodway fringe or special flood hazard areas developed in conformance with the provisions of Section 13-82(d) PROCEDURES AND DEVELOPMENT STANDARDS through 13-82(f), inclusive."

h. Amend Section 13-82(a) through Section 13-82(d) as follows:

"Sec. 18-82. PROCEDURES AND DEVELOPMENT STANDARDS FOR FLOODWAY AREAS

(a) Review procedures. Pursuant to FEMA's National Flood Insurance Program regulations, the Floodplain Administrator shall review projects proposed in areas subject to the floodway areas district regulations to determine compliance with the provisions of this article. Specific responsibilities shall include, but not be limited to:

- (1) Require permits for all proposed development within Zone A on the City's FIRM;
- (2) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
- (3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall (a) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and

hydrostatic loads, including the effects of buoyancy, (b) be constructed with materials resistant to flood damage, (c) be constructed by methods and practices that minimize flood damages, and (d) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

- (4) Review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to assure that (a) all such proposals are consistent with the need to minimize flood damage within the flood-prone area, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and (c) adequate drainage is provided to reduce exposure to flood hazards;
- (5) Require within flood-prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems;
- (6) Require that all new subdivision proposals and other proposed new developments (including proposals for subdivisions greater than 50 lots or 5 acres whichever is the lesser), include within such proposals base flood elevation data.

(b) Submittal requirements. All development, subdivision, structure and substantial improvement proposals shall include submittal of detailed drainage studies and plans drawn to scale showing the nature, location, dimensions and elevation of the area in question, and all existing or proposed structures, fill, storage of materials, drainage facilities and their locations. Specifically, the following information is required:

- (1) Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; in Zone AO and Zone AH, elevation of existing and proposed elevation of lowest floor of all structures.
- (2) Proposed elevation in relation to mean sea level to which any structure will be floodproofed.
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria contained in this article.

- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. The plans, floor height information, and certifications shall be maintained on file by the Development Services Department for flood insurance reference purposes.
- (c) **Alteration or relocation of watercourse.** The Floodplain Administrator shall notify adjacent communities and the State Department of Water Resources prior to approval of any project which would alter or relocate a watercourse having an effect on the flood hazard areas shown on the flood insurance rate maps and submit evidence of such notification to the appropriate Federal agency. Any approval action for such project shall require that maintenance is provided within the altered or relocated portion of a watercourse so that the flood-carrying capacity of the watercourse is not diminished.
- (d) **Standards of construction.** In all areas of special flood hazards, the following standards are required:
 - (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage using methods and practices that minimize flood damage.
 - (3) New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. Nonresidential structures may meet the standards in subsection (d)(5). Upon completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor and provided to the Development Services Department.
 - (4) New construction and substantial improvement of any structure in Zone AO and Zone AH shall have the lowest floor, including basement, elevated to or above the depth number specified on the FIRM. If there is no depth number on the FIRM, the lowest floor, including basement, shall be elevated at least 2 feet above the highest adjacent grade. Nonresidential structures may meet the standards in subsection (d)(5). Upon completion of the structure, a registered professional engineer shall certify that the elevation of the structure meets this standard and such certification shall be provided to the Development Services Department.

(5) Nonresidential construction shall either be elevated in conformance with subsections (d)(3) or (d)(4) or, together with attendant utility and sanitary facilities:

- a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of flood water.
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects on buoyancy; and
- c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. The certifications shall be provided to the Development Services Department.

(6) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- a. A minimum of 2 openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- d. Within Zones AH and AO, adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures are required."

i. Amend Section 13-82(g)(4) as follows:

"(4) No manufactured home shall be placed in a floodway area."

j. Amend Section 13-82(h)(1) as follows:

"(h) Findings.

(1) Application for a permit may be denied where the Floodplain Administrator is unable to find that:

- a. The development will not produce a significant risk to human life in the event of the design flood;
- b. The development is designed and sited so as to offer minimal obstruction to the flow of floodwater; and
- c. The development will not create a potential hazard or otherwise adversely affect property because of diversions, increased heights or velocities of floodwaters or because of increased debris or otherwise adversely affect the safety, use or stability of any public way, drainage channel or adjacent property during a flood condition.

k. Amend Section 13-83 as follows:

"Sec. 18-83. EXCEPTIONS TO DESIGNATE FLOOD HAZARD AREA

The Floodplain Administrator may determine that certain properties within a floodplain district are not required to comply with the provisions of this article, "floodplain" district, when it can be shown that any of the following circumstances or conditions are present:

- (a) The zoning map includes property within a floodway district that is found not to be within a floodplain area due to incorrect preparation of the zoning map or to physical alteration or surrounding property which effectively removed the subject property from the floodplain area. The Floodplain Administrator's determination shall be based on a study of topographic and design flood elevation contours on the subject property, and on such additional information as is found necessary or appropriate.
- (b) Flood protective or flood control work, adequate to protect against the design flood and in compliance with County flood control and flood protective standards and policies, has been completed. The Director's finding shall confirm that any stream, channel, storm drain or landfill improvements fully offset flood surface elevations established by the applicable floodplain map; and that if the property is included on a flood insurance rate map or a flood boundary and floodway map, all such flood protective or flood control work has been approved by the appropriate Federal agency and the property removed from the floodplain designation on such maps."

Section 2. Environmental Determination. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt.

Section 3. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to affect the provisions of this Ordinance.

Section 4. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that anyone or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 5: This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

PASSED AND ADOPTED THIS 19TH DAY OF SEPTEMBER, 2006

Mayor of the City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

City Clerk of the
City of Costa Mesa

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, Julie Folcik, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 06-20 was introduced and considered section by section at a regular meeting of said City Council held on the 5th day of September, 2006 and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the 19th day of September, 2006 by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this 19th day of September, 2006

City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa